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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/568,846

09/18/2006

Klaus Mezger

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4958

34704 7590 01/29/2009

BACHMAN & LAPOINTE, P.C.  
900 CHAPEL STREET  
SUITE 1201  
NEW HAVEN, CT 06510

EXAMINER

PIHULIC, DANIEL T

ART UNIT

PAPER NUMBER

3662

MAIL DATE

DELIVERY MODE

01/29/2009

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/568,846	<b>Applicant(s)</b> MEZGER ET AL.	
	<b>Examiner</b> Dan Pihulic	<b>Art Unit</b> 3662	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-30 is/are pending in the application.
- 4a) Of the above claim(s) 2, 3/2, 4/3/2, 5/4/3/2 and 10-30 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1, 3/1, 4/3/1, 5/4/3/1 and 6-9 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 17 February 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. ____.                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>20060918</u> .  | 6) <input type="checkbox"/> Other: ____.                          |

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1. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

2. Claims 1 and 3-9 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 recites the limitation "the near area" in line 2; and

claim 7 recites the limitation "the presence sensor" in lines 4 and 6.

There is insufficient antecedent basis for these limitations in the claims.

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1 and 3-5 are rejected under 35 U.S.C. 102(b) as being anticipated by DE10012115. The DE10012115 reference (see whole document) discloses the utilization of a radar sensor, wherein the coverage field can be varied or adjusted utilizing frequency and phase as recited in claims 1 and 3.

With regards to claim 4, see figure 7 of the DE10012115 reference.

With regards to claim 5, see figure 2 of the DE10012115 reference.

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

6. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over DE10012115 as applied to claim 1 above, and further in combination with WO03/054333. The difference between the DE10012115 reference and claim 6 is that the claim recites the utilization of a presence sensor. The WO03/054333 reference (see whole document) teaches that it was well known in the art to utilize presence sensor. It would have been obvious to modify the DE10012115 reference to utilize presence sensor as motivated by the WO03/054333 reference to enable the DE10012115 system to sense the presence of an object.

7. Claims 7 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over DE10012115 as applied to claim 1 above, and further in combination with US5294934. The difference between the DE10012115 reference and claims 7 and 8 is that the claims recite the utilization of an auxiliary antenna. The US5294934 reference (see column 6, lines 1-20 and figure 2) teaches that it was well known in the art to utilize an auxiliary antenna. It would have been obvious to modify the DE10012115 reference to utilize an auxiliary antenna as motivated by the US5294934 reference to enable the DE10012115 system to test itself.

8. Claim 9 is rejected under 35 U.S.C. 103 as being unpatentable over DE10012115 in combination with US5294934 as applied to claims 7 and 8 above, and further in combination with US6366237. Claim 9 additionally recites the utilization of [10]. The US6366237 reference

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(see the summary of the invention section) teaches that it was well known in the art to utilize a phase shift means. It would have been obvious to modify the previous combination of references to utilize a phase shift means as motivated by the US6366237 reference to enable the system to vary the radiation pattern.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dan Pihulic whose telephone number is 571-272-6977. The examiner can normally be reached on Tuesday through Thursday and every other Monday and Friday from 5:30 a.m. to 4 p.m. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas Tarcza, can be reached on 571-272-6979.

The fax phone numbers for the organization where this application or proceeding is assigned are:

571-273-8300 for official responses, and

571-273-6977 for unofficial communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the telephone number 800-786-9199.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197.

**/Dan Pihulic/  
Primary Examiner, Art Unit 3662**